


BOOK REVIEW

Thresholds of Accusation: Law and Colonial Order in Canada. By George Pavlich. Cambridge, UK: Cambridge University Press, 2023. 366 pp.

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George Pavlich's *Thresholds of Accusation* explores criminal accusation in the tumultuous period between 1874 and 1884 in the Canadian North-West Territories, part of which would later become the modern province of Alberta. This decade was bracketed by anti-colonial movements spearheaded by Métis leader Louis Riel, first in 1870 and then in 1885, after which Riel was captured, tried before an all-settler jury, and executed on a Regina gallows. The intervening period saw the slow creep across the Prairies of settler farming and colonial control. First established in 1873, the North-West Mounted Police (NWMP), precursors of today's red-coated Royal Canadian Mounted Police, became the premier paramilitary in the region. Abetted by the notorious Indian Act of 1876, in which the Canadian state granted itself sweeping jurisdiction over Indigenous people and polities, the NWMP collaborated with lawyers, judges and other government agents as they worked to impose what they often described as "civilization" on the Indigenous nations of the North-West.

Thresholds of Accusation, therefore, takes up the problem of criminalization at a critical juncture in the history of colonialism and state-building in British North America. Although the empirical base of *Thresholds of Accusation* includes some 50 cases from the archives, alongside other documents such as intelligence reports and handbooks, the book is instead grounded in theory – particularly in concepts elaborated by Foucault and Wittgenstein. It is not a traditional legal history. Instead, Pavlich offers what he describes as a "genealogical – 'history of the present' – analysis," (197) built around "paradigmatic examples" (4). Pavlich uses historical "examples" to direct our attention to what he describes as the opening act in the performance of colonial criminal justice, when complex social relations were first articulated in the language of criminal accusation. In the late-nineteenth-century North-West, the people initiating this process of accusation by speaking a criminal complaint or "information," or by hearing and recording it, were often members of the NWMP.

Accusation was not apolitical. NWMP officers viewed the empire they served in nakedly hierarchical and chauvinistic terms. Their task, as they generally understood it, was to secure private property, promote settled agriculture, and inure Indigenous populations to European understandings of "civilization." They sought to do this without sparking armed resistance, hoping to avoid what intelligence officer William

Francis Butler (1838–1910) described in an 1870 report as an American-style “war of extermination” (Butler, as cited in Pavlich, 46). War, after all, was expensive: Pavlich writes that American military actions against Indigenous nations in the early 1870s cost as much as \$20 million per year – more than the Dominion’s entire annual budget during this period (71). Law was cheaper, and its violence far easier to conceal.

Pavlich argues, echoing historians of colonialism in Canada and elsewhere, that the ideology of empire structured whom officials accused of crimes, which acts counted as “criminal,” and what evidence was recognized in court. Colonial agents, including NWMP officers, presented Indigenous people as lawless while eliding their own roles in spreading poverty, provoking confrontations, and disrupting existing legal and social orders. Criminal accusation funneled rich lives and fraught social interactions into a system that moulded them into forms recognizable by the colonial order, translating “social lore into criminal law” (144). Pavlich is attentive to the gulf between criminal law’s performances – of sovereignty, mercy, and impartiality – and the reality of the colonial state’s scarce resources, incompetence, and racism. *Thresholds of Accusation* is also sensitive to Indigenous peoples’ robust resistance to colonial violence and hegemony, and to the persistence of Indigenous laws that often differed fundamentally from colonial ones. Pavlich reminds us, rightly, that criminalization was not only, or even primarily, about preventing and punishing disorder. Rather, criminal justice in colonial Canada was “about projecting spectacular versions of colonial sovereignty” (85).

If Pavlich’s project were merely to stress the colonial politics of accusation in the North-West Territories, this work would be persuasive, if perhaps not particularly novel. Many have described how colonial legal authorities braided criminal law’s traditional focus on the individual accused with collective understandings of racialized populations. The same is true of the book’s emphasis on the artifice of legal language and spectacle – what Douglas Hay described as law’s “majesty” (Hay 1975/2011). What is noteworthy about *Thresholds of Accusation* is how Pavlich draws connections between these features of nineteenth-century criminal justice and contemporary legal processes, laying the groundwork for what he calls a “sociology of accusation” (3). He argues for a critical re-examination of current pre-trial “accusatory theatres” (88), in which we acknowledge the colonial politics and performativity that are clear in the historical record, but often occluded and naturalized today. More than this, Pavlich calls for a criminal law that can “target [t] blameworthy collective structures that produce socially destructive conditions,” allowing us to “categorize collective – without ignoring individual – responsibilities” (205). It is this urgent demand for a radical rethinking of the processes and assumptions of accusation, from police investigation to charging decisions to preliminary hearings that defines the book’s contribution. Pavlich argues that criminal law and justice are centrally about sovereignty. He asks, “Might accusation be refocused – redefined – to project more enabling ideas of sovereignty via plural legal thresholds (87)?”

At times, Pavlich describes the contemporary criminal justice system in epic terms. He writes of the “omniscient criminal justice colossi facing Alberta nowadays,” (65) and decries “today’s vast, omniscient, and unequally populated criminal justice leviathans” (68). And indeed, the metastasis of policing and punishment systems since the late-nineteenth century is stark when compared to the tiny initial size of the NWMP – under 200 men – and the huge territory it was ostensibly empowered to police.

However, reckoning with the persistent weakness and incompetence of criminal justice actors and institutions – how much police and lawyers and judges do not know and cannot control – might better serve Pavlich’s important argument: that a radically different politics of accusation is not only necessary but, in fact, possible.

Reference

Hay, Douglas. 2011. “Property, Authority and the Criminal Law.” In *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England*, 2nd ed., 17–64. London: Verso. (Original work published 1975).

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